IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

FRIDAY, THE 16TH NOVEMBER 2007 / 25TH KARTHIKA 1929

Crl.MC.No. 3452 of 2007()

(CRIME NO.160/2004 OF CHERUTHURUTHI POLICE STATION)

PETITIONER: 5TH ACCUSED:

SALEEM,S/O.SUBAIR
PADICKAPARAMBIL HOUSE
PALLUR, THRISSUR DISTRICT.

BY ADV. SRI.E.R.VENKATESWARAN
SRI.R.SREEHARI

RESPONDENT: COMPLAINANT:

STATE OF KERALA REPRESENTED BY
THE STATION HOUSE OFFICER
CHERUTHURUTHI POLICE STATION THROUGH
PUBLIC PROSECUTOR, HIGH COURT OF KERALA.

BY PUBLIC PROSECUTOR SRI. P.RAVEENDRA BABU

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 16/11/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

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Crl.M.C.No. 3452 of 2007

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Dated this the 16th day of November, 2007

ORDER

The petitioner faces indictment in a prosecution for offences punishable inter alia under Section 21 of Mines and Minerals (Development and Regulation) Act 1957 and Section 379 IPC. The petitioner was enlarged on bail at the crime stage. The crime was registered as early as in 2004. Investigation is complete. Final report has already been filed. Calender case has been registered as C.C.No.805 of 2004. The petitioner has not appeared before the learned Magistrate so far. The petitioner was employed abroad and it was hence that he could not appear, submits the learned counsel for the petitioner. The learned counsel for the petitioner submits that the petitioner is absolutely innocent. His absence earlier was not wilful. He had no information about the case after cognizance was taken. He is willing to surrender before the learned Magistrate but he apprehends that his application for bail may not be considered by the learned Magistrate, in accordance with law and expeditiously. He therefore prays that a direction may be issued under Section 482 Cr.P.C to the learned Magistrate to release

him on bail when he appears and applies for bail.

2. It is for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate the circumstances under which he could not earlier appear before the learned Magistrate. The learned Magistrate must consider such application for bail on merits, in accordance with law and expeditiously. I have no reason to assume that the learned Magistrate would not consider such application on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific direction appears to be necessary. Sufficient general directions have already been issued in **Alice George v. The Deputy Superintendent of Police [**2003(1) KLT 339].

3. This Crl.M.C. is, in these circumstances, dismissed, but with the specific observation that if the petitioner surrenders before the learned Magistrate and applies for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously-on the date of surrender itself.

(R.BASANT, JUDGE)

sj

/TRUE COPY/

P.A.TO JUDGE